

# SENATE BILL No. 33

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 22-3.

**Synopsis:** Worker's compensation. Adds an ambulatory outpatient surgical center to the definition of "medical service facility" under the worker's compensation law.

**Effective:** July 1, 2015.

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## Boots

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January 6, 2015, read first time and referred to Committee on Pensions & Labor.

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Introduced

First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## SENATE BILL No. 33

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 22-3-6-1, AS AMENDED BY P.L.99-2014,  
2       SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2015]: Sec. 1. In IC 22-3-2 through IC 22-3-6, unless the  
4       context otherwise requires:  
5       (a) "Employer" includes the state and any political subdivision, any  
6       municipal corporation within the state, any individual or the legal  
7       representative of a deceased individual, firm, association, limited  
8       liability company, or corporation or the receiver or trustee of the same,  
9       using the services of another for pay. A parent corporation and its  
10      subsidiaries shall each be considered joint employers of the  
11      corporation's, the parent's, or the subsidiaries' employees for purposes  
12      of IC 22-3-2-6 and IC 22-3-3-31. Both a lessor and a lessee of  
13      employees shall each be considered joint employers of the employees  
14      provided by the lessor to the lessee for purposes of IC 22-3-2-6 and  
15      IC 22-3-3-31. If the employer is insured, the term includes the  
16      employer's insurer so far as applicable. However, the inclusion of an

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1 employer's insurer within this definition does not allow an employer's  
2 insurer to avoid payment for services rendered to an employee with the  
3 approval of the employer. The term also includes an employer that  
4 provides on-the-job training under the federal School to Work  
5 Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth in  
6 IC 22-3-2-2.5. The term does not include a nonprofit corporation that  
7 is recognized as tax exempt under Section 501(c)(3) of the Internal  
8 Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the  
9 corporation enters into an independent contractor agreement with a  
10 person for the performance of youth coaching services on a part-time  
11 basis.

12 (b) "Employee" means every person, including a minor, in the  
13 service of another, under any contract of hire or apprenticeship, written  
14 or implied, except one whose employment is both casual and not in the  
15 usual course of the trade, business, occupation, or profession of the  
16 employer.

17 (1) An executive officer elected or appointed and empowered in  
18 accordance with the charter and bylaws of a corporation, other  
19 than a municipal corporation or governmental subdivision or a  
20 charitable, religious, educational, or other nonprofit corporation,  
21 is an employee of the corporation under IC 22-3-2 through  
22 IC 22-3-6. An officer of a corporation who is an employee of the  
23 corporation under IC 22-3-2 through IC 22-3-6 may elect not to  
24 be an employee of the corporation under IC 22-3-2 through  
25 IC 22-3-6. If an officer makes this election, the officer must serve  
26 written notice of the election on the corporation's insurance  
27 carrier and the board. An officer of a corporation may not be  
28 considered to be excluded as an employee under IC 22-3-2  
29 through IC 22-3-6 until the notice is received by the insurance  
30 carrier and the board.

31 (2) An executive officer of a municipal corporation or other  
32 governmental subdivision or of a charitable, religious,  
33 educational, or other nonprofit corporation may, notwithstanding  
34 any other provision of IC 22-3-2 through IC 22-3-6, be brought  
35 within the coverage of its insurance contract by the corporation by  
36 specifically including the executive officer in the contract of  
37 insurance. The election to bring the executive officer within the  
38 coverage shall continue for the period the contract of insurance is  
39 in effect, and during this period, the executive officers thus  
40 brought within the coverage of the insurance contract are  
41 employees of the corporation under IC 22-3-2 through IC 22-3-6.

42 (3) Any reference to an employee who has been injured, when the



employee is dead, also includes the employee's legal representatives, dependents, and other persons to whom compensation may be payable.

(4) An owner of a sole proprietorship may elect to include the owner as an employee under IC 22-3-2 through IC 22-3-6 if the owner is actually engaged in the proprietorship business. If the owner makes this election, the owner must serve upon the owner's insurance carrier and upon the board written notice of the election. No owner of a sole proprietorship may be considered an employee under IC 22-3-2 through IC 22-3-6 until the notice has been received. If the owner of a sole proprietorship:

(A) is an independent contractor in the construction trades and does not make the election provided under this subdivision, the owner must obtain a certificate of exemption under IC 22-3-2-14.5; or

(B) is an independent contractor and does not make the election provided under this subdivision, the owner may obtain a certificate of exemption under IC 22-3-2-14.5.

(5) A partner in a partnership may elect to include the partner as an employee under IC 22-3-2 through IC 22-3-6 if the partner is actually engaged in the partnership business. If a partner makes this election, the partner must serve upon the partner's insurance carrier and upon the board written notice of the election. No partner may be considered an employee under IC 22-3-2 through IC 22-3-6 until the notice has been received. If a partner in a partnership:

(A) is an independent contractor in the construction trades and does not make the election provided under this subdivision, the partner must obtain a certificate of exemption under IC 22-3-2-14.5; or

(B) is an independent contractor and does not make the election provided under this subdivision, the partner may obtain a certificate of exemption under IC 22-3-2-14.5.

(6) Real estate professionals are not employees under IC 22-3-2 through IC 22-3-6 if:

(A) they are licensed real estate agents;

(B) substantially all their remuneration is directly related to sales volume and not the number of hours worked; and

(C) they have written agreements with real estate brokers stating that they are not to be treated as employees for tax purposes.

(7) A person is an independent contractor and not an employee



under IC 22-3-2 through IC 22-3-6 if the person is an independent contractor under the guidelines of the United States Internal Revenue Service.

(8) An owner-operator that provides a motor vehicle and the services of a driver under a written contract that is subject to IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 376 to a motor carrier is not an employee of the motor carrier for purposes of IC 22-3-2 through IC 22-3-6. The owner-operator may elect to be covered and have the owner-operator's drivers covered under a worker's compensation insurance policy or authorized self-insurance that insures the motor carrier if the owner-operator pays the premiums as requested by the motor carrier. An election by an owner-operator under this subdivision does not terminate the independent contractor status of the owner-operator for any purpose other than the purpose of this subdivision.

(9) A member or manager in a limited liability company may elect to include the member or manager as an employee under IC 22-3-2 through IC 22-3-6 if the member or manager is actually engaged in the limited liability company business. If a member or manager makes this election, the member or manager must serve upon the member's or manager's insurance carrier and upon the board written notice of the election. A member or manager may not be considered an employee under IC 22-3-2 through IC 22-3-6 until the notice has been received.

(10) An unpaid participant under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the extent set forth in IC 22-3-2-2.5.

(11) A person who enters into an independent contractor agreement with a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to perform youth coaching services on a part-time basis is not an employee for purposes of IC 22-3-2 through IC 22-3-6.

(12) An individual who is not an employee of the state or a political subdivision is considered to be a temporary employee of the state for purposes of IC 22-3-2 through IC 22-3-6 while serving as a member of a mobile support unit on duty for training, an exercise, or a response, as set forth in IC 10-14-3-19(c)(2)(B).

(c) "Minor" means an individual who has not reached seventeen (17) years of age.

(1) Unless otherwise provided in this subsection, a minor employee shall be considered as being of full age for all purposes



of IC 22-3-2 through IC 22-3-6.

(2) If the employee is a minor who, at the time of the accident, is employed, required, suffered, or permitted to work in violation of IC 20-33-3-35, the amount of compensation and death benefits, as provided in IC 22-3-2 through IC 22-3-6, shall be double the amount which would otherwise be recoverable. The insurance carrier shall be liable on its policy for one-half (1/2) of the compensation or benefits that may be payable on account of the injury or death of the minor, and the employer shall be liable for the other one-half (1/2) of the compensation or benefits. If the employee is a minor who is not less than sixteen (16) years of age and who has not reached seventeen (17) years of age and who at the time of the accident is employed, suffered, or permitted to work at any occupation which is not prohibited by law, this subdivision does not apply.

(3) A minor employee who, at the time of the accident, is a student performing services for an employer as part of an approved program under IC 20-37-2-7 shall be considered a full-time employee for the purpose of computing compensation for permanent impairment under IC 22-3-3-10. The average weekly wages for such a student shall be calculated as provided in subsection (d)(4).

(4) The rights and remedies granted in this subsection to a minor under IC 22-3-2 through IC 22-3-6 on account of personal injury or death by accident shall exclude all rights and remedies of the minor, the minor's parents, or the minor's personal representatives, dependents, or next of kin at common law, statutory or otherwise, on account of the injury or death. This subsection does not apply to minors who have reached seventeen (17) years of age.

(d) "Average weekly wages" means the earnings of the injured employee in the employment in which the employee was working at the time of the injury during the period of fifty-two (52) weeks immediately preceding the date of injury, divided by fifty-two (52), except as follows:

(1) If the injured employee lost seven (7) or more calendar days during this period, although not in the same week, then the earnings for the remainder of the fifty-two (52) weeks shall be divided by the number of weeks and parts thereof remaining after the time lost has been deducted.

(2) Where the employment prior to the injury extended over a period of less than fifty-two (52) weeks, the method of dividing



the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed, if results just and fair to both parties will be obtained. Where by reason of the shortness of the time during which the employee has been in the employment of the employee's employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages, as defined in this subsection, regard shall be had to the average weekly amount which during the fifty-two (52) weeks previous to the injury was being earned by a person in the same grade employed at the same work by the same employer or, if there is no person so employed, by a person in the same grade employed in the same class of employment in the same district.

(3) Wherever allowances of any character made to an employee in lieu of wages are a specified part of the wage contract, they shall be deemed a part of the employee's earnings.

(4) In computing the average weekly wages to be used in calculating an award for permanent impairment under IC 22-3-3-10 for a student employee in an approved training program under IC 20-37-2-7, the following formula shall be used. Calculate the product of:

- (A) the student employee's hourly wage rate; multiplied by
- (B) forty (40) hours.

The result obtained is the amount of the average weekly wages for the student employee.

(e) "Injury" and "personal injury" mean only injury by accident arising out of and in the course of the employment and do not include a disease in any form except as it results from the injury.

(f) "Billing review service" refers to a person or an entity that reviews a medical service provider's bills or statements for the purpose of determining pecuniary liability. The term includes an employer's worker's compensation insurance carrier if the insurance carrier performs such a review.

(g) "Billing review standard" means the data used by a billing review service to determine pecuniary liability.

(h) "Community" means a geographic service area based on ZIP code districts defined by the United States Postal Service according to the following groupings:

- (1) The geographic service area served by ZIP codes with the first three (3) digits 463 and 464.
- (2) The geographic service area served by ZIP codes with the first three (3) digits 465 and 466.



(3) The geographic service area served by ZIP codes with the first three (3) digits 467 and 468.

(4) The geographic service area served by ZIP codes with the first three (3) digits 469 and 479.

(5) The geographic service area served by ZIP codes with the first three (3) digits 460, 461 (except 46107), and 473.

(6) The geographic service area served by the 46107 ZIP code and ZIP codes with the first three (3) digits 462.

(7) The geographic service area served by ZIP codes with the first three (3) digits 470, 471, 472, 474, and 478.

(8) The geographic service area served by ZIP codes with the first three (3) digits 475, 476, and 477.

(i) "Medical service provider" refers to a person or an entity that provides services or products to an employee under IC 22-3-2 through IC 22-3-6. Except as otherwise provided in IC 22-3-2 through IC 22-3-6, the term includes a medical service facility.

(j) "Medical service facility" means any of the following that provides a service or product under IC 22-3-2 through IC 22-3-6 and uses the CMS 1450 (UB-04) form for Medicare reimbursement:

**(1) An ambulatory outpatient surgical center (as defined in IC 16-18-2-14).**

~~(+)~~ **(2)** A hospital (as defined in IC 16-18-2-179).

~~(+)~~ **(3)** A hospital based health facility (as defined in IC 16-18-2-180).

~~(+)~~ **(4)** A medical center (as defined in IC 16-18-2-223.4).

The term does not include a professional corporation (as defined in IC 23-1.5-1-10) comprised of health care professionals (as defined in IC 23-1.5-1-8) formed to render professional services as set forth in IC 23-1.5-2-3(a)(4) or a health care professional (as defined in IC 23-1.5-1-8) who bills for a service or product provided under IC 22-3-2 through IC 22-3-6 as an individual or a member of a group practice or another medical service provider that uses the CMS 1500 form for Medicare reimbursement.

(k) "Pecuniary liability" means the responsibility of an employer or the employer's insurance carrier for the payment of the charges for each specific service or product for human medical treatment provided under IC 22-3-2 through IC 22-3-6, as follows:

(1) This subdivision applies before July 1, 2014, to all medical service providers, and after June 30, 2014, to a medical service provider that is not a medical service facility. Payment of the charges in a defined community, equal to or less than the charges made by medical service providers at the eightieth percentile in





the same community for like services or products.

(2) This subdivision applies after June 30, 2014, to a medical service facility. Payment of the charges in a reasonable amount, which is established by payment of one (1) of the following:

(A) The amount negotiated at any time between the medical service facility and any of the following, if an amount has been negotiated:

(i) The employer.

(ii) The employer's insurance carrier.

(iii) A billing review service on behalf of a person described in item (i) or (ii).

(iv) A direct provider network that has contracted with a person described in item (i) or (ii).

(B) Two hundred percent (200%) of the amount that would be paid to the medical service facility on the same date for the same service or product under the medical service facility's Medicare reimbursement rate, if an amount has not been negotiated as described in clause (A).

(l) "Service or product" or "services and products" refers to medical, hospital, surgical, or nursing service, treatment, and supplies provided under IC 22-3-2 through IC 22-3-6.

SECTION 2. IC 22-3-7-9, AS AMENDED BY P.L.99-2014, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 9. (a) As used in this chapter, "employer" includes the state and any political subdivision, any municipal corporation within the state, any individual or the legal representative of a deceased individual, firm, association, limited liability company, or corporation or the receiver or trustee of the same, using the services of another for pay. A parent corporation and its subsidiaries shall each be considered joint employers of the corporation's, the parent's, or the subsidiaries' employees for purposes of sections 6 and 33 of this chapter. Both a lessor and a lessee of employees shall each be considered joint employers of the employees provided by the lessor to the lessee for purposes of sections 6 and 33 of this chapter. The term also includes an employer that provides on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth under section 2.5 of this chapter. If the employer is insured, the term includes the employer's insurer so far as applicable. However, the inclusion of an employer's insurer within this definition does not allow an employer's insurer to avoid payment for services rendered to an employee with the approval of the employer. The term does not include a nonprofit corporation that is recognized as tax exempt under Section



501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the corporation enters into an independent contractor agreement with a person for the performance of youth coaching services on a part-time basis.

(b) As used in this chapter, "employee" means every person, including a minor, in the service of another, under any contract of hire or apprenticeship written or implied, except one whose employment is both casual and not in the usual course of the trade, business, occupation, or profession of the employer. For purposes of this chapter the following apply:

(1) Any reference to an employee who has suffered disablement, when the employee is dead, also includes the employee's legal representative, dependents, and other persons to whom compensation may be payable.

(2) An owner of a sole proprietorship may elect to include the owner as an employee under this chapter if the owner is actually engaged in the proprietorship business. If the owner makes this election, the owner must serve upon the owner's insurance carrier and upon the board written notice of the election. No owner of a sole proprietorship may be considered an employee under this chapter unless the notice has been received. If the owner of a sole proprietorship:

(A) is an independent contractor in the construction trades and does not make the election provided under this subdivision, the owner must obtain a certificate of exemption under section 34.5 of this chapter; or

(B) is an independent contractor and does not make the election provided under this subdivision, the owner may obtain a certificate of exemption under section 34.5 of this chapter.

(3) A partner in a partnership may elect to include the partner as an employee under this chapter if the partner is actually engaged in the partnership business. If a partner makes this election, the partner must serve upon the partner's insurance carrier and upon the board written notice of the election. No partner may be considered an employee under this chapter until the notice has been received. If a partner in a partnership:

(A) is an independent contractor in the construction trades and does not make the election provided under this subdivision, the partner must obtain a certificate of exemption under section 34.5 of this chapter; or

(B) is an independent contractor and does not make the election provided under this subdivision, the partner may



- 1 obtain a certificate of exemption under section 34.5 of this  
2 chapter.
- 3 (4) Real estate professionals are not employees under this chapter  
4 if:
- 5 (A) they are licensed real estate agents;  
6 (B) substantially all their remuneration is directly related to  
7 sales volume and not the number of hours worked; and  
8 (C) they have written agreements with real estate brokers  
9 stating that they are not to be treated as employees for tax  
10 purposes.
- 11 (5) A person is an independent contractor in the construction  
12 trades and not an employee under this chapter if the person is an  
13 independent contractor under the guidelines of the United States  
14 Internal Revenue Service.
- 15 (6) An owner-operator that provides a motor vehicle and the  
16 services of a driver under a written contract that is subject to  
17 IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 376, to a motor  
18 carrier is not an employee of the motor carrier for purposes of this  
19 chapter. The owner-operator may elect to be covered and have the  
20 owner-operator's drivers covered under a worker's compensation  
21 insurance policy or authorized self-insurance that insures the  
22 motor carrier if the owner-operator pays the premiums as  
23 requested by the motor carrier. An election by an owner-operator  
24 under this subdivision does not terminate the independent  
25 contractor status of the owner-operator for any purpose other than  
26 the purpose of this subdivision.
- 27 (7) An unpaid participant under the federal School to Work  
28 Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the  
29 extent set forth under section 2.5 of this chapter.
- 30 (8) A person who enters into an independent contractor agreement  
31 with a nonprofit corporation that is recognized as tax exempt  
32 under Section 501(c)(3) of the Internal Revenue Code (as defined  
33 in IC 6-3-1-11(a)) to perform youth coaching services on a  
34 part-time basis is not an employee for purposes of this chapter.
- 35 (9) An officer of a corporation who is an employee of the  
36 corporation under this chapter may elect not to be an employee of  
37 the corporation under this chapter. If an officer makes this  
38 election, the officer must serve written notice of the election on  
39 the corporation's insurance carrier and the board. An officer of a  
40 corporation may not be considered to be excluded as an employee  
41 under this chapter until the notice is received by the insurance  
42 carrier and the board.



1 (10) An individual who is not an employee of the state or a  
2 political subdivision is considered to be a temporary employee of  
3 the state for purposes of this chapter while serving as a member  
4 of a mobile support unit on duty for training, an exercise, or a  
5 response, as set forth in IC 10-14-3-19(c)(2)(B).

6 (c) As used in this chapter, "minor" means an individual who has  
7 not reached seventeen (17) years of age. A minor employee shall be  
8 considered as being of full age for all purposes of this chapter.  
9 However, if the employee is a minor who, at the time of the last  
10 exposure, is employed, required, suffered, or permitted to work in  
11 violation of the child labor laws of this state, the amount of  
12 compensation and death benefits, as provided in this chapter, shall be  
13 double the amount which would otherwise be recoverable. The  
14 insurance carrier shall be liable on its policy for one-half (1/2) of the  
15 compensation or benefits that may be payable on account of the  
16 disability or death of the minor, and the employer shall be wholly liable  
17 for the other one-half (1/2) of the compensation or benefits. If the  
18 employee is a minor who is not less than sixteen (16) years of age and  
19 who has not reached seventeen (17) years of age, and who at the time  
20 of the last exposure is employed, suffered, or permitted to work at any  
21 occupation which is not prohibited by law, the provisions of this  
22 subsection prescribing double the amount otherwise recoverable do not  
23 apply. The rights and remedies granted to a minor under this chapter on  
24 account of disease shall exclude all rights and remedies of the minor,  
25 the minor's parents, the minor's personal representatives, dependents,  
26 or next of kin at common law, statutory or otherwise, on account of any  
27 disease.

28 (d) This chapter does not apply to casual laborers as defined in  
29 subsection (b), nor to farm or agricultural employees, nor to household  
30 employees, nor to railroad employees engaged in train service as  
31 engineers, firemen, conductors, brakemen, flagmen, baggagemen, or  
32 foremen in charge of yard engines and helpers assigned thereto, nor to  
33 their employers with respect to these employees. Also, this chapter  
34 does not apply to employees or their employers with respect to  
35 employments in which the laws of the United States provide for  
36 compensation or liability for injury to the health, disability, or death by  
37 reason of diseases suffered by these employees.

38 (e) As used in this chapter, "disablement" means the event of  
39 becoming disabled from earning full wages at the work in which the  
40 employee was engaged when last exposed to the hazards of the  
41 occupational disease by the employer from whom the employee claims  
42 compensation or equal wages in other suitable employment, and



1 "disability" means the state of being so incapacitated.

2 (f) For the purposes of this chapter, no compensation shall be  
3 payable for or on account of any occupational diseases unless  
4 disablement, as defined in subsection (e), occurs within two (2) years  
5 after the last day of the last exposure to the hazards of the disease  
6 except for the following:

7 (1) In all cases of occupational diseases caused by the inhalation  
8 of silica dust or coal dust, no compensation shall be payable  
9 unless disablement, as defined in subsection (e), occurs within  
10 three (3) years after the last day of the last exposure to the hazards  
11 of the disease.

12 (2) In all cases of occupational disease caused by the exposure to  
13 radiation, no compensation shall be payable unless disablement,  
14 as defined in subsection (e), occurs within two (2) years from the  
15 date on which the employee had knowledge of the nature of the  
16 employee's occupational disease or, by exercise of reasonable  
17 diligence, should have known of the existence of such disease and  
18 its causal relationship to the employee's employment.

19 (3) In all cases of occupational diseases caused by the inhalation  
20 of asbestos dust, no compensation shall be payable unless  
21 disablement, as defined in subsection (e), occurs within three (3)  
22 years after the last day of the last exposure to the hazards of the  
23 disease if the last day of the last exposure was before July 1, 1985.

24 (4) In all cases of occupational disease caused by the inhalation  
25 of asbestos dust in which the last date of the last exposure occurs  
26 on or after July 1, 1985, and before July 1, 1988, no compensation  
27 shall be payable unless disablement, as defined in subsection (e),  
28 occurs within twenty (20) years after the last day of the last  
29 exposure.

30 (5) In all cases of occupational disease caused by the inhalation  
31 of asbestos dust in which the last date of the last exposure occurs  
32 on or after July 1, 1988, no compensation shall be payable unless  
33 disablement (as defined in subsection (e)) occurs within  
34 thirty-five (35) years after the last day of the last exposure.

35 (g) For the purposes of this chapter, no compensation shall be  
36 payable for or on account of death resulting from any occupational  
37 disease unless death occurs within two (2) years after the date of  
38 disablement. However, this subsection does not bar compensation for  
39 death:

40 (1) where death occurs during the pendency of a claim filed by an  
41 employee within two (2) years after the date of disablement and  
42 which claim has not resulted in a decision or has resulted in a



1 decision which is in process of review or appeal; or

2 (2) where, by agreement filed or decision rendered, a  
3 compensable period of disability has been fixed and death occurs  
4 within two (2) years after the end of such fixed period, but in no  
5 event later than three hundred (300) weeks after the date of  
6 disablement.

7 (h) As used in this chapter, "billing review service" refers to a  
8 person or an entity that reviews a medical service provider's bills or  
9 statements for the purpose of determining pecuniary liability. The term  
10 includes an employer's worker's compensation insurance carrier if the  
11 insurance carrier performs such a review.

12 (i) As used in this chapter, "billing review standard" means the data  
13 used by a billing review service to determine pecuniary liability.

14 (j) As used in this chapter, "community" means a geographic service  
15 area based on ZIP code districts defined by the United States Postal  
16 Service according to the following groupings:

17 (1) The geographic service area served by ZIP codes with the first  
18 three (3) digits 463 and 464.

19 (2) The geographic service area served by ZIP codes with the first  
20 three (3) digits 465 and 466.

21 (3) The geographic service area served by ZIP codes with the first  
22 three (3) digits 467 and 468.

23 (4) The geographic service area served by ZIP codes with the first  
24 three (3) digits 469 and 479.

25 (5) The geographic service area served by ZIP codes with the first  
26 three (3) digits 460, 461 (except 46107), and 473.

27 (6) The geographic service area served by the 46107 ZIP code and  
28 ZIP codes with the first three (3) digits 462.

29 (7) The geographic service area served by ZIP codes with the first  
30 three (3) digits 470, 471, 472, 474, and 478.

31 (8) The geographic service area served by ZIP codes with the first  
32 three (3) digits 475, 476, and 477.

33 (k) As used in this chapter, "medical service provider" refers to a  
34 person or an entity that provides services or products to an employee  
35 under this chapter. Except as otherwise provided in this chapter, the  
36 term includes a medical service facility.

37 (l) As used in this chapter, "medical service facility" means any of  
38 the following that provides a service or product under this chapter and  
39 uses the CMS 1450 (UB-04) form for Medicare reimbursement:

40 **(1) An ambulatory outpatient surgical center (as defined in**  
41 **IC 16-18-2-14).**

42 **(+ (2) A hospital (as defined in IC 16-18-2-179).**



1       ~~(2)~~ **(3)** A hospital based health facility (as defined in  
2       IC 16-18-2-180).

3       ~~(3)~~ **(4)** A medical center (as defined in IC 16-18-2-223.4).

4       The term does not include a professional corporation (as defined in  
5       IC 23-1.5-1-10) comprised of health care professionals (as defined in  
6       IC 23-1.5-1-8) formed to render professional services as set forth in  
7       IC 23-1.5-2-3(a)(4) or a health care professional (as defined in  
8       IC 23-1.5-1-8) who bills for a service or product provided under this  
9       chapter as an individual or a member of a group practice or another  
10      medical service provider that uses the CMS 1500 form for Medicare  
11      reimbursement.

12      (m) As used in this chapter, "pecuniary liability" means the  
13      responsibility of an employer or the employer's insurance carrier for the  
14      payment of the charges for each specific service or product for human  
15      medical treatment provided under this chapter as follows:

16      (1) This subdivision applies before July 1, 2014, to all medical  
17      service providers, and after June 30, 2014, to a medical service  
18      provider that is not a medical service facility. Payment of the  
19      charges in a defined community, equal to or less than the charges  
20      made by medical service providers at the eightieth percentile in  
21      the same community for like services or products.

22      (2) This subdivision applies after June 30, 2014, to a medical  
23      service facility. Payment of the charges in a reasonable amount,  
24      which is established by payment of one (1) of the following:

25      (A) The amount negotiated at any time between the medical  
26      service facility and any of the following, if an amount has been  
27      negotiated:

28          (i) The employer.

29          (ii) The employer's insurance carrier.

30          (iii) A billing review service on behalf of a person described  
31          in item (i) or (ii).

32          (iv) A direct provider network that has contracted with a  
33          person described in item (i) or (ii).

34      (B) Two hundred percent (200%) of the amount that would be  
35      paid to the medical service facility on the same date for the  
36      same service or product under the medical service facility's  
37      Medicare reimbursement rate, if an amount has not been  
38      negotiated as described in clause (A).

39      (n) "Service or product" or "services and products" refers to  
40      medical, hospital, surgical, or nursing service, treatment, and supplies  
41      provided under this chapter.

